

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Samantha Rivera, Plaintiff, -v- NYC Motorcars Corporation, and Hoor E. Onna, Defendants.	Civ. Action #: <u>Complaint</u> Date Filed: <u>Jury Trial Demanded</u>
---	---

Plaintiff Samantha Rivera (“Plaintiff,” or “Rivera”), by Abdul Hassan Law Group, PLLC, her attorney, complaining of Defendant NYC Motorcars Corporation and Hoor E. Onna (collectively “Defendants”), respectfully alleges as follows:

NATURE OF THE ACTION

1. Plaintiff alleges that he was employed by Defendants, individually and/or jointly, and pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 216 (b), she is: (i) entitled to unpaid overtime wages from Defendant for working more than forty hours in a week and not being paid an overtime rate of at least 1.5 times her regular rate for such hours over forty in a week; and (ii) entitled to maximum liquidated damages and attorneys' fees pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq. including 29 U.S.C. §§ 216(b).
2. Plaintiff further complains pursuant to New York Labor Law, she is: (i) entitled to unpaid overtime wages from Defendant for working more than forty hours in a week and not being paid an overtime rate of at least 1.5 times her regular rate for such hours over forty in a week; and (ii) is entitled to maximum liquidated damages and attorneys' fees, pursuant to the New York Minimum Wage Act (“NYMWA”), N.Y. Lab. Law §§ 650 et seq., including NYLL § 663, and the regulations thereunder.
3. Plaintiff is also entitled to recover all of her unpaid wages under Article 6 of the New York Labor Law including Section 191, and compensation for not receiving notices and statements required by NYLL 195, and is also entitled to maximum liquidated damages, and attorneys'

fees pursuant to Section 198 of the New York Labor Law.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 and supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1337. In addition, the Court has jurisdiction over Plaintiff's claims under the Fair Labor Standards Act pursuant to 29 U.S.C. § 216 (b).
5. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1331(b) and/or 29 U.S.C. § 216 (b).
6. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 2202.

THE PARTIES

7. Plaintiff Samantha Rivera ("Plaintiff" or "Rivera") is an adult, over eighteen years old, who currently resides in Bronx County in the State of New York.
8. Upon information and belief, and at all times relevant herein, Defendant NYC Motorcars Corporation ("NYCMC"), was a New York for-profit corporation with a place of business located at 3748 Boston Road Bronx, NY 10465, where Plaintiff was employed.
9. Upon information and belief and at all times relevant herein, the corporate Defendant was owned/controlled/managed by Defendant Hoor E. Onna ("Onna"), who was in charge of the operations and management of NYCMC.
10. Upon information and belief and at all times relevant herein, Defendants individually and/or jointly controlled the employment of Plaintiffs and were responsible for hiring, firing, scheduling, controlling, managing, supervising, and record-keeping as to Plaintiff's employment, among other employment functions.
11. Upon information and belief, Defendants NYCMC and Onna shared a place of business in

Bronx county, New York at 3748 Boston Road Bronx, NY 10465, where Plaintiff was employed.

12. At all times relevant herein, Plaintiff was employed individually and/or jointly by Defendants.

STATEMENT OF FACTS

13. Upon information and belief, and at all relevant times herein, Defendants individually and/or jointly, were engaged in the car dealership business. See <https://www.nycmotorcars.com/>

14. Upon information and belief and at all times relevant herein, Defendants, individually and/or jointly, owned and/or operated 13 or more locations and employed dozens of employees.

15. At all times relevant herein, Plaintiff was employed by Defendants, individually and/or jointly, as a receptionist performing all manual and repetitive tasks within this capacity.

16. At all times relevant herein, Plaintiff was employed by Defendants, individually and/or jointly, from on or about December 2, 2019 to on or about February 1, 2020.

17. At all times relevant herein, Defendant paid Plaintiff at a regular rate of \$15 an hour.

18. At all times relevant herein, Plaintiff was paid at her straight regular rate for all hours worked in a week including her overtime hours (hours over 40 in a week) worked, for each week during her employment with Defendant.

19. At all times relevant herein, Plaintiff worked about 55-70 hours a week; 7 days a week and was paid at her straight regular rate for all hours worked including her overtime hours worked.

20. A more precise statement of the hours and wages will be made when Plaintiff Rivera obtains the wage and time records Defendant was required to keep under the FLSA and NYLL. Accurate copies of plaintiff's wage and time records that Defendant was required to keep pursuant to 29 USC 211, 29 CFR 516 and NYLL 195, 12 NYCRR 142.2-6, are incorporated

herein by reference.

21. At all times relevant herein, Defendant did not provide Plaintiff with the notice(s) required by NYLL 195(1).
22. At all times relevant herein, Defendant did not provide Plaintiff with the statement(s) required by NYLL 195(3) – the wage statements provided to Plaintiff did not reflect all hours worked by Plaintiff and did not state the hours worked in each week, among other deficiencies.
23. Upon information and belief and at all times relevant herein, Defendant had annual revenues and/or expenditures in excess of \$500,000.
24. At all times applicable herein, Defendant conducted business with vendors/entities/persons within the State of New York.
25. At all times applicable herein and upon information and belief, Defendant utilized the instrumentalities of interstate commerce such as the United States mail, electronic mail, internet and telephone systems.
26. At all times applicable herein and upon information and belief, Defendant utilized the goods, materials, and services through interstate commerce.
27. Defendant as a regular part of their business, makes payment of taxes and other monies to agencies and entities outside the State of New York.
28. At all times applicable herein and upon information and belief, Defendant and the tenants in its buildings conducted business with mortgage companies, banks, insurance companies, and internet/email service providers within and outside the State of New York.
29. Defendant as a regular part of their business, engaged in credit card transactions with involving banks and other institutions outside the state of New York.

30. At all times relevant herein and for the time Plaintiff was employed by Defendant, Defendant failed and willfully failed to pay plaintiff an overtime rate of at least 1.5 times her effective regular rate of pay for all hours worked in excess of forty hours in a week for each week in which such overtime was worked.
31. Upon information and belief, and at all relevant times herein, Defendant failed to display federal and state minimum wage/overtime posters as required by the FLSA and NYLL.
32. Upon information and belief, and at all relevant times herein, Defendant failed to notify Plaintiff of her federal and state overtime rights and failed to inform plaintiff that he could seek enforcement of such rights through the government enforcement agencies.
33. The circumstances of Plaintiff's termination by Defendants are still under review and investigation and Plaintiff may bring wrongful termination and other claims against Defendants at a later date.
34. "Plaintiff" as used in this complaint refers to the named Plaintiff.
35. The "present" or the "present time" as used in this complaint refers to the date this complaint was signed.

AS AND FOR A FIRST CAUSE OF ACTION

FAIR LABOR STANDARDS ACT - 29 U.S.C 201 et Seq.

36. Plaintiff alleges and incorporates by reference the allegations in paragraphs 1 through 35 above as if set forth fully and at length herein.
37. At all times relevant to this action, Plaintiff was employed by Defendants, individually and/or jointly, within the meaning of the FLSA, 29 USC 201 et Seq.
38. At all times relevant to this action, Plaintiff was engaged in commerce and/or in the production of goods for commerce and/or Defendants, individually and/or jointly, constituted an enterprise(s) engaged in commerce within the meaning of 29 U.S.C. §§ 206(a) and/or

207(a).

39. At all times relevant herein, Defendants, individually and/or jointly, transacted commerce and business in excess of \$500,000.00 annually or had revenues in excess of \$500,000.00 annually.
40. At all times relevant herein, Defendants, individually and/or jointly, failed and willfully failed to pay Plaintiff overtime compensation at a rate of at least 1.5 times her regular rate of pay for each hour worked in excess of forty hours in a week, in violation of 29 U.S.C. § 207.

Relief Demanded

41. Due to Defendant's FLSA violations, Plaintiff is entitled to recover from Defendants, individually and/or jointly, her unpaid overtime compensation, maximum liquidated damages, attorneys' fees, and costs of the action, pursuant to 29 U.S.C. § 216(b).

AS AND FOR A SECOND CAUSE OF ACTION

NYLL 650 et Seq. and 12 NYCRR 142-2.2, etc. (Unpaid Overtime)

42. Plaintiff alleges and incorporates by reference the allegations in paragraphs 1 through 40 above as if set forth fully and at length herein.
43. At all times relevant to this action, Plaintiff was employed by Defendants, individually and/or jointly, within the meaning of the New York Labor Law, §§ 2 and 651 and the regulations thereunder including 12 NYCRR § 142.
44. At all times relevant to this action, Plaintiff was employed by Defendant within the meaning of the New York Labor Law, §§ 2 and 651 and the regulations thereunder.
45. At all times relevant herein, Defendants, individually and/or jointly, failed and willfully failed to pay Plaintiff overtime compensation at rates of at least 1.5 times her regular rate of pay for each hour worked in excess of forty hours in a week, in violation of the New York Minimum Wage Act and its implementing regulations. N.Y. Lab. Law §§ 650 et seq.; 12

NYCRR § 142-2.2.

Relief Demanded

46. Due to Defendant's New York Labor Law violations, Plaintiff is entitled to recover from Defendant, her unpaid overtime compensation, prejudgment interest, maximum liquidated damages, reasonable attorneys' fees, and costs of the action, pursuant to N.Y. Labor L. § 663(1).

AS AND FOR A THIRD CAUSE OF ACTION
(NYLL § 190, 191, 193, 195 and 198)

47. Plaintiff alleges and incorporates each and every allegation contained in paragraphs 1 through 45 above with the same force and effect as if fully set forth at length herein.

48. At all times relevant to this action, Plaintiff was employed by Defendants, individually and/or jointly, within the meaning of the New York Labor law, §§ 190 et seq., including §§ 191, 193, 195 and 198 and the applicable regulations thereunder.

49. At all relevant times herein, Defendants, individually and/or jointly, violated and willfully violated Plaintiff's rights under NY Labor Law § 190 et seq. including NY Labor Law §§ 191, 193 and 198 by failing to pay Plaintiff all her wages, including her unpaid overtime wages, and wage deductions, as required under NY Labor Law § 190 et seq.

50. At all times relevant herein, Defendants, individually and/or jointly, failed and willfully failed to provide Plaintiff with the notice(s) required by NYLL 195(1) – Plaintiff is therefore entitled to and seeks to recover in this action the maximum recovery for this violation, plus attorneys' fees and costs pursuant to NYLL 198 including NYLL 198(1-b), as well as an injunction directing Defendant to comply with NYLL 195(1).

51. At all times relevant herein, Defendants, individually and/or jointly, failed and willfully failed to provide Plaintiff with the statement(s) required by NYLL 195(3) – Plaintiff is therefore entitled to and seeks to recover in this action the maximum recovery for this violation, plus attorneys' fees and costs pursuant to NYLL 198 including NYLL 198(1-d), as

well as an injunction directing Defendant to comply with NYLL 195(1).

Relief Demanded

52. Due to Defendant's New York Labor Law Article 6 violations including violation of sections 191, 193 and 198, Plaintiff is entitled to recover from Defendants, individually and/or jointly, her entire unpaid wages, including her unpaid overtime wages, wage deductions, maximum liquidated damages, prejudgment interest, maximum recovery for violations of NYLL §195(1) and NYLL § 195(3), reasonable attorneys' fees, and costs of the action, pursuant to N.Y. Labor Law § 190 et seq. including § 198.

PRAAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests that this Court grant the following relief:

53. Declare Defendants, individually and/or jointly (including its overtime and wage payment policy and practice), to be in violation of the rights of Plaintiff, under the FLSA and New York Labor Law – 12 NYCRR § 142, and Article 6 of the NYLL – NYLL § 190 et Seq.

54. As to the **First Cause of Action**, award Plaintiff her unpaid overtime wages due under the FLSA, together with maximum liquidated damages, costs and attorneys' fees pursuant to 29 USC § 216(b);

55. As to the **Second Cause of Action**, award Plaintiff her unpaid overtime wages due under the New York Minimum Wage Act and the Regulations thereunder including 12 NYCRR § 142-2.2, together with maximum liquidated damages, prejudgment interest, costs and attorneys' fees pursuant to NYLL § 663;

56. As to the **Third Cause of Action**, award Plaintiff any and all outstanding wages, including her entire unpaid wages, including her unpaid overtime wages, wage deductions, maximum liquidated damages, prejudgment interest, maximum recovery for violations of NYLL 195(1) and NYLL 195(3), reasonable attorneys' fees, and costs of the action, pursuant to N.Y. Labor Law § 190 et seq. including § 198.

57. Award Plaintiff, any relief requested or stated in the preceding paragraphs, but which has not been requested in the WHEREFORE clause or "PRAYER FOR RELIEF", in addition to the relief requested in the wherefore clause/prayer for relief;
58. Award Plaintiff such other, further and different relief as the Court deems just and proper.

**Dated: Queens Village, New York
March 31, 2020**

Respectfully submitted,

Abdul Hassan Law Group, PLLC

/s/ Abdul Hassan

By: Abdul K. Hassan, Esq. (AH6510) - *Counsel for Plaintiff*
215-28 Hillside Avenue, Queens Village, NY 11427
Tel: 718-740-1000 Fax: 718-740-2000
Email: abdul@abdulhassan.com